



## COUNCIL MINUTES

August 30, 2010

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on August 30, 2010 at 5:50 p.m.

### COUNCIL PRESENT

Mayor Scott Smith  
Alex Finter  
Dina Higgins  
Kyle Jones  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Invocation by Pastor Jeff Kossack, Mesa First Assembly of God.

Pledge of Allegiance was led by Glenn Johnson of Scout Troop No. 851.

Mayor's Welcome.

Awards, Recognitions and Announcements.

Mayor Smith recognized District 4 Councilmember-Elect Christopher Glover who was present in the audience. He congratulated him on his recent election to the Mesa City Council and said that the entire Council looked forward to working with him.

Mayor Smith announced that earlier this month, the Mesa Arts Center was named "Arts Organization of the Year" by the Arts & Business Council of Greater Phoenix. He invited recently appointed Mesa Arts Center Executive Director Cindy Ornstein to come forward and comment on this prestigious award.

Ms. Ornstein stated that she was honored to accept the award on behalf of the Mesa Arts Center and expressed appreciation to the Council, staff, volunteers, donors and sponsors for their support and hard work which made this award possible. She explained that the award was given for four major initiatives including MAC Fest, which brings local artists to downtown Mesa every Saturday between October and April; Mesa Bucks, for which individuals can redeem receipts for purchases made in Mesa to defray ticket costs for various arts and cultural activities in the community; "3 for Free," a program sponsored by Target which provides free admission to the Mesa Arts Center, Arizona Museum for Youth and the Arizona Museum for Natural History the first Sunday of every month; and the Lowell Elementary School Arts Outreach Program.

Mayor Smith commented that although the Mesa Arts Center staff has struggled over the past few years with a reduction in resources and fewer donations, they have still been able to develop an outstanding arts and cultural program. He expressed appreciation to them for their efforts and hard work in that regard.

1. Take action on all consent agenda items.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Somers, that the consent agenda items be approved.

Carried unanimously.

**Items on the Consent Agenda**

\*2. Approval of minutes of previous meetings as written.

Minutes of the April 5 and 19 and August 23, 2010 Council meetings.

3. Take action on the following contracts:

- \*3a. Purchase of a Fire Driver Training Simulator for the Fire Department (Funded by 2009 Assistance to Firefighters Grant and City Match, \$36,081.60). **(Citywide)**

The Purchasing Division recommends awarding the contract to the lowest, responsible and responsive bidder, Simulation Technology, LLC, at \$180,408, including applicable use tax.

- \*3b. Fabrication and Installation of Illuminated Street Name Signs for the Transportation Department (Fully Funded by Transportation Sales Tax). **(Citywide)**

The Purchasing Division recommends authorizing purchase from the Mohave Educational Services Cooperative Contract with SummitWest Signs at \$115,897.76, including applicable sales tax, based on estimated annual requirements.

- \*3c. Purchase of a New Automated Citizen Online Incident Reporting System for the Police Department. **(Single Proposal) (Citywide)**

The Purchasing Division recommends awarding the contract to CopLogic, Inc., at \$33,800, including applicable sales taxes.

- \*3d. ASU Polytechnic Campus Roadway and Utility Improvements. **(District 6) – DELETED**

- \*3e. Rehabilitate Southern Avenue Wastewater Line, west on Southern Avenue from Horne to the Tempe Canal. **(Districts 3 and 4)**

City Project 07-060-001. This project will rehabilitate approximately 19,640 feet of existing wastewater line by installing a new interior lining system known as cured in-place pipe (CIPP) that will restore full strength to the pipe and protect against further corrosion.

Recommend award of the construction phase contract to B & F Contracting, Inc., as the Construction Manager at Risk (CMAR) for this project with a Guaranteed Maximum Price

(GMP) of \$5,082,854.05, plus an additional \$508,285.41 (10% allowance for change orders), for a total award of \$5,591,139.46. Funding is available in the FY 10/11 Wastewater Capital Bond Budget.

- \*3f. Dollar Limit Increases for Various Potable Water Treatment Chemicals for the Water Resources Department. **(Citywide)**

The Purchasing Division recommends increasing the dollar limit of the contract with General Chemical Performance Products LLC by \$79,000; Norit Americas, Inc. by \$212,000; and Univar USA Inc. by \$159,000. The combined total of these increases is \$450,000.

4. Take action on the following resolutions:

- \*4a. Approving and authorizing the City Manager to execute an Agreement with the U.S. Marshals Service to accept funds in the amount of \$16,000. Funds will be used to reimburse the Police Department for overtime for officers assigned to the Major Felony Unit – Resolution No. 9755.
- \*4b. Approving and authorizing the City Manager to execute an Agreement with the State of Arizona, Attorney General's Office to accept funds in the amount of \$248,000 to purchase equipment, software and training for the Police Department's Fusion Center – Resolution No. 9756.

5. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen that wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (\*), a blue card must be given to the Clerk before Council votes on the consent agenda.

- \*5a. Amending §11-18-8 of the Zoning Ordinance to allow notice of a proposed rezoning amendment to occur through either posting of a site or through a newspaper advertisement for publically initiated zoning cases. This amendment would still require private landowners seeking rezoning to post notice at a site and placement of legal notice in the newspaper – Ordinance No. 4998.

P&Z Recommendation: Adoption. (Vote: 6 – 0, Boardmember Arnett absent.)

6. Take action on the following resolution and ordinance:

- \*6a. Take action on resolution approving and authorizing the City Manager to execute the First Amendment to the Development Agreement between Commercial Metals Company (CMC) and the City of Mesa for modifications to the timing of landscaping improvements and accelerated construction of a portion of East Pecos Road. **(District 6) (CONTINUED TO THE SEPTEMBER 13, 2010 REGULAR COUNCIL MEETING.)**
- \*6b. Take action on ordinance regarding **Z10-02 (District 6)** 11464 East Germann Road. Located on the west side of the Meridian Road alignment, between Pecos Road and Germann Road (229± acres). Modification of Ordinance No. 4870. This request will allow the phasing of development on the site. CMC Steel, owner. Andrew Sarat, applicant. **(CONTINUED TO THE SEPTEMBER 13, 2010 REGULAR COUNCIL MEETING.)**

P&Z Recommendation: Approval with Conditions. (Vote: 7 – 0)

**Items not on the Consent Agenda**

- 5b. Take action on ordinance regarding **Z10-19 (District 6)** 5850 East Still Circle. Located on the south side of the Superstition Freeway and east of Recker Road. Council Use Permit. This request will allow the development of a Freeway Landmark Monument Sign for A.T. Still University. Monica L. Harrison, owner; James Carpentier, applicant. (PLN2010-00131) – Ordinance No. 4999.

P&Z Recommendation: Approval with Conditions. (Vote: 6 – 0, Boardmember Arnett absent.)

DRB Recommendation: Approval with Conditions. (Vote: 5 – 0, Boardmember LeSueur absent.)

Planning Director John Wesley reported that Freeway Landmark Monument (FLM) signs have existed in the City of Mesa for approximately five years. He explained that in 2004, the Council adopted the Freeway Landmark Monument Guidelines, which staff utilizes to implement the program and review developments. Mr. Wesley added that this particular plan comes with recommendations for approval by the Planning & Zoning Board and the Design Review Board.

James Carpentier, the applicant, addressed the Council and stated that the proposed FLM sign would benefit not only the Arizona Health and Technology Park, A.T. Still University, but an existing YMCA facility. He noted that in addition, the sign would support the City's Power Road Knowledge Corridor Initiative, two of the four H.E.A.T. (Health, Education, Aerospace and Tourism) Initiatives and said that for those reasons, he would ask that the Council approve the request.

Councilmember Kavanaugh expressed opposition to this item. He stated that Mr. Wesley failed to advise the Council that staff recommended denial of the application due to the fact that in 2004 when the Freeway Landmark Monument Guidelines were approved, the Council intended that the FLM signs would be used for the specific purpose of assisting retail developments that have limited visibility along nearby freeways. He commented that was the reason that the prior Council did not approve FLM signs at business parks or other types of non-retail developments.

Councilmember Kavanaugh also indicated that if the Council approves this item, they would be "letting the genie out of the bottle." He stated that if the Council accepts Mr. Carpentier's arguments and approves this matter based on the H.E.A.T. Initiative, they might have difficulty in the future denying requests for FLM signs from entities such as Mesa Community College's (MCC) Main Campus, Banner Desert Hospital, MCC at Red Mountain or Longbow Business Park.

Councilmember Kavanaugh further advised that he does not oppose A.T. Still University and, in fact, served on the Council that worked to help open the facility. He reiterated, however, that staff was correct in their denial of the application and said that it does not comply with nine elements in the Freeway Landmark Monument Guidelines.

Responding to a series of questions from Councilmember Richins, Mr. Carpentier clarified that the Council is being asked to approve a message change every 15 seconds on the Electronic Message Display, which is consistent with other electronic freeway signs located in Mesa.

Councilmember Richins noted that he has never been supportive of Electronic Message Displays and voiced concern that the proposed message board would change too frequently. He also concurred with Councilmember Kavanaugh's comments relative to the fact that the FLM sign would be used for a purpose other than to assist retail development.

Mr. Carpentier clarified that the sign would support A.T. Still University and economic development for the park, the community and the region. He stated that many citizens are unaware that A.T. Still University exists in Mesa and noted that the sign would assist in that regard. Mr. Carpentier added that because of the unique nature of this development (i.e., a medical university and medical/technology park), he questioned whether it would set a precedent for future FLM sign applications.

Councilmember Richins commented that because the City is being asked to make nine exceptions to the Freeway Landmark Monument Guidelines in order to accommodate this request, he would prefer that the sign ordinance, which includes FLM signs, be revised so that the Council would not have to approve similar exceptions in the future. He said that for that reason, he would oppose this matter.

Responding to a series of questions from Councilmember Higgins, Zoning/Civil Hearing Administrator Gordon Sheffield explained that the 15 seconds timeframe is fairly standard for electronic message signs that are used onsite. He said that 12-foot message signs are generally used in front of businesses such as drugstores and grocery stores. Mr. Sheffield also advised that the 15 seconds timeframe was chosen for message boards based on the idea that a motorist traveling between 40 and 60 miles per hour, over a quarter mile, would see the sign once or twice in terms of the number of changes. He added that this is the same standard that was used for the changeable copy on the Riverview FLM sign.

Councilmember Higgins noted that since she came on the Council two years ago, she has encouraged and supported an FLM sign at this site in order to provide greater visibility for A.T. Still University. She stated that the university, which includes a medical and a dental school, is "a gem" and remarked that although it might not be the City's responsibility to advertise the facility, its existence in Mesa should be "celebrated." Councilmember Higgins added that she fully supports the applicant's request.

Discussion ensued relative to the fact that per the sign ordinance, any electronic message sign in the City of Mesa is, by right, given one hour between changes, with the option by an applicant to request more frequent changes as part of the review process; that concerning this item, the applicant's request for a 15 seconds change for the message board has been well accepted by the Board of Adjustment in prior cases; and the fact that the Town of Gilbert, in addition to utilizing FLM signs to promote retail uses, has also allowed a similar sign for a non-retail use at Banner Gateway Hospital.

Responding to a question from Councilmember Finter, Mr. Carpentier stated that although he would prefer not to divulge the specific cost for the proposed sign, he acknowledged that it was a costly investment for A.T. Still University. He also noted that the Electronic Message Display would allow greater flexibility to advertise community events and programs that are hosted by the university.

Councilmember Finter voiced support for the applicant's request and commented that because the surrounding communities permit FLM signs for retail and non-retail purposes, "Mesa should

do whatever it can" to attract the public to the Arizona Health and Technology Park development, which includes A.T. Still University.

Councilmember Richins clarified that on a philosophical basis, he was not opposed to the sign, but preferred that the Council come back at a future time and revise the Guidelines. He added that he did not support the Electronic Message Display on the FLM sign at Riverview and stated the opinion that such displays are distracting to drivers.

Mayor Smith commented that although he did not object to the sign, he had mixed feelings with regard to this item. He concurred with Councilmember Richins that the Council should go back and revise the Guidelines. Mayor Smith also noted that he was not necessarily concerned that the Council would set a precedent relative to this request simply because the development was unique. He further remarked that he has "a problem" with electronic message boards because they do not appear to be maintained.

In response to a question from Mayor Smith, Mr. Carpentier clarified that the proposed Electronic Message Display would include graphic images and text.

Responding to a question from Mayor Smith, Mr. Sheffield explained that the existing Zoning Ordinance contains provisions concerning maintenance requirements for FLM signs/Electronic Message Displays that have been approved by the Council and said that no further conditions would be necessary under the Council Use Permit.

Additional discussion ensued relative to the fact that it was the opinion of the applicant that the proposed 85 foot height of the FLM sign was required due to the Roosevelt Canal overpass located to the east of the sign and the difference in grade from the FLM sign to the Superstition Freeway; that the grade of the FLM sign is approximately 10 feet lower than the grade of the freeway; that if the sign were lower than the 85 feet height, the tenant panels would not be visible from the Superstition Freeway; and that by comparison, the Superstition Springs FLM sign is 85 feet high and the Fiesta Mall FLM sign is 95 feet high.

It was moved by Councilmember Finter, seconded by Councilmember Higgins, that Ordinance No. 4999 be adopted.

Upon tabulation of votes, it showed:

AYES - Smith-Finter-Higgins-Jones-Somers  
NAYS - Kavanaugh-Richins

Mayor Smith declared the motion carried by majority vote and Ordinance No. 4999 adopted.

Mayor Smith suggested that it would be appropriate for the Council to come back and revise the Freeway Landmark Monument Guidelines in the future.

City Manager Christopher Brady stated that pending completion of the Zoning Code update, staff would make a presentation to the Council regarding updates to the Sign Code, which includes FLM signs.

7. Items from citizens present.

There were no items from citizens present.

8. Adjournment.

Without objection, the meeting adjourned at 6:30 p.m.

---

SCOTT SMITH, MAYOR

ATTEST:

---

LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 30<sup>th</sup> day of August 2010. I further certify that the meeting was duly called and held and that a quorum was present.

---

LINDA CROCKER, CITY CLERK

pag